

EXHIBIT D

JOSEPH WHITTEMORE

June 1, 2006

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
C.A. NO. 04-11842-PBS

* * * * *

SCOTT RODGERS, *

Plaintiff *

vs. *

CORRECTION OFFICER ORCHID, *

UNKNOWN CORRECTION OFFICER JOHN *

DOE, JOE WHITMORE, DR. HOWARD, *

JOHN SMITH, PLYMOUTH COUNTY, *

Defendants *

* * * * *

DEPOSITION OF JOSEPH A. WHITTEMORE
HRONES, GARRITY & HEDGES
Lewis Wharf Bay, Suite 232
Boston, Massachusetts
June 1, 2006 11:15 a.m.

Maryellen Coughlin
Registered Professional Reporter

JOSEPH WHITTEMORE**June 1, 2006**

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<p>1 crushed at Plymouth County? How did you know, 2 let's put it that way? 3 MR. BREEN: Objection. 4 A. We just knew because we were, 5 because that was the policy, to crush psych meds 6 and anything potential to be abused. 7 Q. But is it written down somewhere? 8 A. Yes. 9 Q. Where is that? 10 A. In the policies. 11 Q. Which particular policy? 12 A. Probably the 600 series. It's the 13 medical department's book of policies. 14 Q. So in that 600 series policy, 15 you're saying there's a list of individual names 16 of medicines that need to be crushed? 17 A. No, not individual names. 18 Categories of medications. 19 Q. And so then you based on your 20 training you're saying, determine whether a 21 particular medicine fits in that category? 22 MR. BREEN: Objection. 23 A. Yes. 24 Q. Are you familiar with all the</p>	<p>1 Naprosyn. Is that the official -- is that a 2 brand name, or is that the official scientific 3 name of the medicine? 4 A. That's a brand name. 5 Q. What's the official scientific 6 name? 7 A. Naproxen sodium. 8 Q. Can you describe what it's given 9 for? 10 MR. BREEN: Objection. 11 A. It's a nonsteroidal 12 anti-inflammatory/analgesic/antipyretic. 13 Q. What does all that mean? 14 A. It means it reduces fevers, it 15 reduces inflammation, it relieves pain. It's 16 very similar to Advil or Motrin. They're the 17 same class of drug. 18 Q. What color is it? 19 A. Depending on the dosage and 20 manufacturer, it could be any color. 21 Q. What type of category of drug does 22 it fall under? 23 A. It's a nonsteroidal 24 anti-inflammatory.</p>
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<p>1 different medicines that were given out at 2 Plymouth County? 3 A. Yes. 4 Q. So you always knew what category a 5 given medicine fit into? 6 A. Yes. It's your responsibility to 7 know what you're giving them. 8 Q. And so by that same token, then, 9 you would always know which medicines should be 10 crushed and which shouldn't? 11 A. Correct. 12 Q. And this is based solely on that 13 policy, not on conversations with Dr. Howard; is 14 that what you are saying? 15 MR. BREEN: Objection. 16 A. Yes. 17 Q. Did he ever tell you, well, we're 18 going to go a little bit beyond the policy and 19 crush some other medicines that aren't on there? 20 A. No. 21 Q. Or vice versa, we're not going to 22 crush these even though they should be? 23 A. No. 24 Q. Now, let's talk a little bit about</p>	<p>1 Q. Does it have any known side 2 effects? 3 MR. BREEN: Objection. 4 A. Yes. 5 Q. What are they? 6 A. G.I. upset, stomach upset. Also, 7 it increases bleeding. 8 Q. Bleeding where? 9 MR. BREEN: Objection. 10 A. Anywhere. Bruising. It just makes 11 you more apt to bleed. 12 Q. Anything else? 13 A. That's the big one. 14 Q. What type of conditions is it 15 prescribed to treat? 16 MR. BREEN: Objection. 17 Q. You can answer. 18 A. Okay. Pain, rheumatism. 19 Q. Does that mean arthritis? 20 A. Yes. 21 Q. Any other conditions that it's 22 given to treat? 23 MR. BREEN: Objection. 24 A. No. It's a pain reliever.</p>

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<p>1 Headaches. I mean, you could take it for that.</p> <p>2 Just general malaise, pain, inflammation.</p> <p>3 Q. Now, during the period of August</p> <p>4 2001, Scott Rodgers was prescribed Naprosyn</p> <p>5 during that time period, right?</p> <p>6 A. Yes.</p> <p>7 Q. How long was he on it?</p> <p>8 A. I don't know.</p> <p>9 Q. Is there something that would</p> <p>10 refresh your memory as to when he was put on it?</p> <p>11 A. Possibly.</p> <p>12 Q. Can we mark this, please.</p> <p>13 (Exhibit No. 1 was marked</p> <p>14 for identification.)</p> <p>15 Q. Just take a look at this document</p> <p>16 here. Specifically we'll start with the first</p> <p>17 page, but you can take a look at the whole thing,</p> <p>18 if you want.</p> <p>19 MR. BREEN: Do you want him to read</p> <p>20 the whole thing?</p> <p>21 MR. TUMPOSKY: At some point, yeah.</p> <p>22 If you want to do it now or as I go through it,</p> <p>23 it's up to you.</p> <p>24 MR. BREEN: Okay. Read the whole</p>	<p>1 Q. How can you tell?</p> <p>2 A. I know his writing, and he signed</p> <p>3 it here (indicating).</p> <p>4 Q. Where?</p> <p>5 A. Right there (indicating).</p> <p>6 MR. BREEN: Let me state that the</p> <p>7 original document doesn't have an orange line</p> <p>8 through it on a particular entry.</p> <p>9 MR. TUMPOSKY: Sure.</p> <p>10 A. And he signed it here (indicating),</p> <p>11 I believe, as well.</p> <p>12 Q. 'Cause no one else would be, other</p> <p>13 than a doctor would write a physician's order out</p> <p>14 I would assume, right?</p> <p>15 MR. BREEN: Objection.</p> <p>16 A. At the time he had a physician's</p> <p>17 assistant who would write orders who was also --</p> <p>18 Q. Who?</p> <p>19 A. Steve McCabe I think was the PA at</p> <p>20 the time. It was either Steve McCabe who was the</p> <p>21 PA or Donna Feeney who was the nurse</p> <p>22 practitioner, but they could write orders. Also,</p> <p>23 our psychiatrist could write orders, and the</p> <p>24 orthopedic PA would write orders.</p>
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<p>1 thing. Take your time.</p> <p>2 MR. TUMPOSKY: Why don't we just</p> <p>3 separate out actually the first page and start</p> <p>4 with that, and we'll call the first page an</p> <p>5 exhibit by itself.</p> <p>6 MR. BREEN: That's fine with me.</p> <p>7 MR. TUMPOSKY: Okay. And the rest</p> <p>8 of it we'll mark as a separate exhibit.</p> <p>9 MR. BREEN: Exhibit 1 would be one</p> <p>10 page, then?</p> <p>11 MR. TUMPOSKY: Yes.</p> <p>12 Is that your handwriting?</p> <p>13 A. No.</p> <p>14 Q. What is this document that we are</p> <p>15 marking as Exhibit 1?</p> <p>16 MR. BREEN: If you know.</p> <p>17 Q. If you know.</p> <p>18 A. It's a doctor's order sheet.</p> <p>19 Q. So that would imply that it was</p> <p>20 Dr. Howard who wrote this?</p> <p>21 MR. BREEN: Objection.</p> <p>22 Q. Can you tell by looking at the</p> <p>23 writing on the document who wrote it?</p> <p>24 A. Yeah, Dr. Howard. Dr. Howard.</p>	<p>1 Q. But you couldn't, right?</p> <p>2 A. No, I couldn't, no.</p> <p>3 Q. Can you read the writing on this</p> <p>4 document?</p> <p>5 A. Most of it, yeah.</p> <p>6 Q. Can you tell me in your own words</p> <p>7 what it says?</p> <p>8 A. He's ordered Celexa 20 milligrams</p> <p>9 once a day for 30 days. He's ordered us to get</p> <p>10 the old records at Neponset Health Center in</p> <p>11 Dorchester and Dorchester House of Correction.</p> <p>12 He's ordered a bottom bunk. He's ordered</p> <p>13 Naprosyn 500 milligrams twice a day. Old records</p> <p>14 from Mass. General Hospital. He's given</p> <p>15 permission for him to have a knee support. And</p> <p>16 he's written Clonidine 0.1 milligrams twice a day</p> <p>17 for three days.</p> <p>18 Q. Now, right below where it says</p> <p>19 Naprosyn 500 milligrams PD, what's the next line?</p> <p>20 A. It's BID times 30 days.</p> <p>21 Q. So what does that mean?</p> <p>22 A. It means by mouth twice a day for</p> <p>23 30 days.</p> <p>24 Q. And this is dated August 7th, 2001?</p>

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1 A. Yes.

2 Q. How long after a physician's order

3 is given does it go into effect?

4 A. Immediately as soon as it's taken

5 off, as soon as it's been transcribed to the

6 medication sheet.

7 Q. How long does that take?

8 A. It depends on the day. I mean, you

9 know, best case scenario within a couple of

10 hours, but sometimes they would -- it might take

11 a day.

12 Q. But at the most a day?

13 A. Generally, yeah.

14 Q. And the next day you started giving

15 Naprosyn to Scott Rodgers, right?

16 MR. BREEN: Objection.

17 A. Not necessarily. It would also

18 have to be sent from the pharmacy, so that also

19 might take a day.

20 Q. So a couple of days after this,

21 then, you started giving Naprosyn to Scott

22 Rodgers, at the latest?

23 MR. BREEN: Objection. Just for

24 clarification when you say "you," you mean

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1 Mr. Whittemore.

2 MR. TUMPOSKY: I'm sorry, I mean

3 Mr. Whittemore, yes.

4 A. I don't know.

5 Q. But you did give Scott Rodgers

6 Naprosyn at some point during August 2001?

7 MR. BREEN: Same objection.

8 Q. You, Mr. Whittemore. You singular.

9 A. Yes.

10 Q. What color was it?

11 A. If I remember correctly, pink.

12 Q. What brand is that?

13 A. It's just naproxen sodium, and it

14 was issued to us by PharMerica.

15 Q. How was it given to him?

16 A. In a cup, by mouth.

17 Q. Did you watch him take it?

18 A. Yes.

19 Q. How many milligrams?

20 A. Five hundred milligrams.

21 Q. Is it time released?

22 A. No.

23 Q. How can you tell?

24 A. 'Cause it would say that. We've

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1 never used time released or buffered Naprosyn.

2 I'm not even sure if there is such a thing.

3 Q. It would say if it was time

4 released?

5 A. Yes.

6 Q. Where would it say?

7 A. It would say on the medication

8 card. It would say something like Naproxen ER

9 or, you know, extended release. It would have

10 some sort of, some sort of -- the word I'm

11 looking for is -- it would say, and it didn't.

12 It doesn't. We don't use anything in any

13 Naprosyn that's an extended release.

14 Q. Why not?

15 MR. BREEN: Objection.

16 A. Like I said, I'm not even sure if

17 there is an extended release version. It's

18 probably more probable that if anything there

19 would be maybe a buffered version, but it's not,

20 it's not widely used, if at all, even if there is

21 a buffered version.

22 Q. What's the difference between

23 buffered and extended release?

24 A. Extended release is usually coated.

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1 I'm just speaking extended release medications,

2 not specifically Naprosyn, because I don't know

3 even if they do make them, but usually it's

4 coated and so it dissolves slower and it releases

5 the medication slower.

6 Q. If a buffered medicine were

7 crushed, would that affect the way it was

8 distributed to a person inside their body?

9 MR. BREEN: Objection.

10 A. Not necessarily buffered, but the

11 time release, yes, that would affect it.

12 Q. But buffered you're saying it

13 wouldn't matter?

14 A. It could. It might. I really

15 don't know.

16 Q. Did you crush the Naprosyn?

17 A. No.

18 Q. You specifically remember not

19 crushing it?

20 A. We never needed to. It was never a

21 drug to be crushed. It wasn't a psych med, and

22 there was no real potential for abuse with it.

23 Q. What other medicines was Scott

24 Rodgers taking at that time?